

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed May 21, 2003. Applicants believe that all pending claims are in condition for allowance and respectfully request reconsideration and favorable action in this case.

Section 103 Rejections

The Examiner rejects Claims 17 and 22 under 35 U.S.C. §103(a), as being obvious over U.S. Patent No. 6,212,202 issued to Radimirsch, et al. ("*Radimirsch*"). The Examiner also rejects Claims 1-16, 18-21, and 23-28 under 35 U.S.C. § 103(a), as being obvious over the Applicants admitted prior art (AAPA) in view of *Radimirsch* and U.S. Patent 6,243,382 issued to O'Neill, et al. ("*O'Neill*").

In order to establish a prima facie case of obviousness: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge available to one skilled in the art, to modify a reference or combine multiple references; (2) there must be a reasonable expectation of success; and (3) the prior art reference, or the combination of references, must teach or suggest all the claim limitations. See M.P.E.P. § 2143. Applicants respectfully argue that *Radimirsch*, *O'Neill*, and the *AAPA*, whether considered alone or in combination, all fail to teach or suggest all the limitations of Claims 1-28. Therefore, a prima facie case of obviousness cannot be maintained.

Claims 17 and 22 are Allowable Over *Radimirsch*

Claim 17 recites a telecommunications signal comprising a superframe made up of a plurality of cells where each cell payload comprises "a successive segment of a first component for a plurality of traffic streams and a reduced rate second component for a portion of the traffic streams." Claim 17 further recites that the cells in the superframe together comprise the reduced rate second components for all of the traffic streams.

Radimirsch discloses a broadband data transmission method where data is transmitted preferably in ATM cells. A narrow-band signaling channel transmits signaling information. (*Radimirsch*, Abstract). The broadband channel is comprised of an alternating arrangement of payload slots transmitted in broadband and signal data slots transmitted in narrow-band.

(*Radimirsch*, Col. 3; Lines 6-8). Each payload slot contains a number of ATM cells with each cell containing a header and a payload packet. (*Radimirsch*, Col. 3; Lines 9-11).

The Examiner states that *Radimirsch* discloses a superframe with cells comprising signaling information. (Office Action mailed 5/21/03 citing *Radimirsch* Col. 8; Lines 33-35). The Examiner concedes that *Radimirsch* does not disclose that the cell payloads contain information in addition to signaling information, but states that it would be obvious to one skilled in the art to utilize the large size of a cell payload to include non-signaling data. (Office Action mailed 5/21/03, page 2, ¶2). Applicants respectfully remind the Examiner that such a broad and conclusory type rejection is improper for a number of reasons. If "common knowledge" or "well known" art is being relied on, Applicants respectfully request that a reference be provided in support of this position pursuant to M.P.E.P. § 2144.03. If personal knowledge is being relied on, Applicants respectfully request that an affidavit supporting such facts be provided pursuant to M.P.E.P. § 2144.03.

Assuming, for the sake of argument, that it would be obvious to one of skill in the art to include both signaling data and non-signaling data in a cell payload, *Radimirsch* still fails to disclose a cell payload comprising a *successive segment* of a first component (for example, in one embodiment, data information) for a *plurality* of traffic streams and a reduced rate second component (for example, in one embodiment, signaling information) for a portion of the traffic streams, as recited in Claim 17. In addition, *Radimirsch* fails to disclose that the cells of the superframe together comprise the reduced rate second component for all of the traffic streams, as recited in Claim 17.

With respect to Claim 22, as discussed above, *Radimirsch* fails to disclose cells in the superframe comprising reduced rate second components in addition to first components. Assuming, for the sake of argument, that it would be obvious to one skilled on the art that a cell payload comprise first components and reduced rate second components, *Radimirsch* fails to disclose that substantially each cell in the superframe comprises reduced rate second components *for a same number of traffic streams*, as disclosed on Claim 22. The Examiner states that it would be obvious to one skilled in the art to carry signaling data in multiple cells. Once again, Applicants respectfully request that a reference be provided in support of this position pursuant to M.P.E.P. § 2144.03. If personal knowledge is being relied on,

Applicants respectfully request that an affidavit supporting such facts be provided pursuant to M.P.E.P. § 2144.03.

For at least these reasons, Claims 17 and 22 are allowable over the cited references. Therefore, Applicants respectfully request reconsideration and allowance of Claims 17 and 22, as well as Claims 18-21, which depend from Claim 17.

Claims 1, 14, and 23 are Allowable over *Radimirsch*, *AAPA*, and *O'Neill*

Claim 1 of the present application recites the following:

A method for transmitting traffic having disparate rate components, comprising:

receiving a plurality of traffic streams, each traffic stream including a first component and a reduced rate second component associated with the first component;

segmenting the first components of the traffic streams into successive cells; and

distributing the second components of the traffic streams between a defined set of the cells for in-band transmission of the second components in a payload of each of the cells.

Claims 14 and 23, recite similar, although not identical, limitations.

As stated above, the Examiner concedes that *Radimirsch* does not disclose a cell payload containing both a first component (e.g., data information) and a reduced rate second component (e.g. signaling information), as recited in Claim 1, and similarly, although not identically, in Claims 14 and 23. *O'Neill* discloses segmenting and reassembly of packets from ATM cells and states that cells containing signaling messages are distinguished from cells containing data by information contained in the header of the cell. (*O'Neill*, Col. 2; Lines 26-32). Therefore, *O'Neill* teaches away from a cell payload containing both data and signaling information, as recited in Claim 1, and similarly, although not identically, in Claims 14 and 23.

To fill the void in the prior art, the Examiner states that it would have been obvious to one skilled in the art at the time of the invention to segment the first components of the *AAPA* into successive cells where those cells carry signaling information in the payload, in light of *Radimirsch* and *O'Neill*. (Office Action mailed 5/10/03 page 3, ¶6). For the reasons

discussed above with respect to Claim 17, Applicants respectfully request that the Examiner provide a reference or an affidavit in support of this position pursuant to M.P.E.P. § 2144.03. Furthermore, as stated above, *O'Neill* specifically notes that cells containing data and cells containing signaling information are distinguished from each other, and therefore, fails to disclose cell payloads containing *both* data and signaling information.

For at least this reason, Claims 1, 14, and 23 are allowable over the cited references. Therefore, Applicants respectfully request reconsideration and allowance of Claims 1, 14 and 23, and all claims that depend from those claims.

Claims 2-4, 19, and 24-25 are Allowable Over *AAPA*, *Radimirsch*, and *O'Neill*

Claim 2 recites "substantially evenly distributing the second components of the traffic streams between the defined set of cells." Claim 24 recites similar, although not identical, limitations. As Claims 2 and 24 incorporate all the limitations of Claims 1 and 23, respectively, the evenly distributed second components are distributed within the payload of each of the cells. The Examiner states that this limitation is disclosed in Figure 3 of *Radimirsch*. (Office Action mailed 5/10/03, page 4, ¶1). However, the *Radimirsch* figure merely indicates that signaling data slots are positioned between useful data slots, where the useful data slots contain the cells. Neither the *Radimirsch* figure, nor its accompanying description in the specification, indicate that the second components distributed in the cell payloads are substantially evenly distributed between defined sets of cells.

Claim 3 recites "segmenting the first component of each traffic stream into a fixed position in the successive cells." The Examiner states that the fact that the cells are all occupied in Figure 3 of *Radimirsch* suggests segmentation into fixed positions. (Office Action mailed 5/10/03, page 4, ¶1). Claims 19 and 25 recite similar, although not identical, limitations. However, the *Radimirsch* figure merely indicates an example position of a grouping of cells within useful data slots and does not indicate the positioning of components *within each cell*.

Claim 4 recites "the defined set of cells is a superframe" and "transmitting successive superframes without insertion of intervening superframe information." The Examiner states that slot 74 in Figure 3 of *Radimirsch* can be considered to be a superframe. (Office Action mailed 5/10/03, page 4, ¶1). However, slot 74 in Figure 3 includes not only a defined set of

cells (items 3), but also a signaling data slot (item 73). Therefore, since Claim 4 recites that the defined set of cells makes up a superframe, the superframe of Figure 3 in *Radimirsch* would contain only the cells (items 3) and not the signaling data slot (item 73). Thus, the signaling data slot of *Radimirsch* would be intervening superframe information that is inserted between superframes, in contradiction to the recitation in Claim 4.

For at least these reasons, Claims 2-4, 19, and 24-25 are allowable over the cited references. Therefore, Applicants respectfully request reconsideration and allowance of Claims 2-4, 19 and 24-25.


CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending Claims.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicants hereby request a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

No fees are believed to be due, however, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicants


Brian W. Oaks
Reg. No. 44,981

2001 Ross Avenue
Dallas, Texas 75201-2980
(214) 953-6986

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CORRESPONDENCE ADDRESS:
Baker Botts L.L.P.
2001 Ross Avenue, Suite 600
Dallas, TX 75201-2980